Office-Supreme Court, U.S.
FILED
OCT 6 1961
JOHN F. DAVIS, CLERK

No. 564

IN THE

Supreme Court of the United States

CARMEN TISONE,

Appellant,

vs.

THE STATE OF OHIO,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO JURISDICTIONAL STATEMENT

THEODORE R. SAKER,
50 E. Broad St., Columbus, Ohio,
AVETIS G. DARVANAN,
802 Mahoning Bank Building, Youngstown, Ohio,
Attorneys for Appellant,

CLYDE OSBORNE,
Prosecuting Attorney,
Mahoning County Court House, Youngstown, Ohio,
Attorney for Appellee.

MIDWEST LAW PRINTERS AND PUBLISHERS, INC., Columbus 15, Ohio

INDEX

Jurisdictional Statement	1
Opinion Below	1
Jurisdiction	2
Question Presented	2
Statement	3
The Question is Substantial	4
Appendix A—Opinions Below	7
Appendix B—Affidavit for Search Warrant	18
Appendix C—Statute	23

Citations

Ker. v. State of California, 374 U.S. 23	2, 5
Mapp v. Ohio, 367 U.S. 642	5
Nathanson v. United States, 290 U.S. 41	4
Norris v. State of Alabama, 290 U.S. 41	2
Pierre v. Louisiana, 306 U.S. 354	2
Poldo v. United States, 55 Fed. 2d. 866	5
Rupenski v. United States, 4 Fed. 2d. 17	5

Statutes

United States Code, Title 28, Section 1257 (2)	2
Ohio Revised Code Section 2933.23	6
Ohio Revised Code Section 2953.02	2

Treatises

162 American Law Reports 1406	5

IN THE

Supreme Court of the United States

October Term, 1964

No. .....

CARMEN TISONE,

Appellant,

vs.

THE STATE OF OHIO,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO

JURISDICTIONAL STATEMENT

The appellant appeals from the judgment of the Supreme Court of the State of Ohio denying an application for rehearing entered on April 29, 1964, to appeal from the decision of the Court of Appeals of Ohio, Seventh Judicial District, upholding the conviction of the appellant, and submits this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

OPINION BELOW

The decisions of the Supreme Court of the State of Ohio dismissing appellant's appeal on the grounds that no substantial constitutional question was involved; sustaining appellee's motion to dismiss the appeal as of right; dismissing appellant's motion for leave to appeal; and denyings a rehearing application of appellant's case are printed

in Appendix "A" hereto, *infra*, pages VII to X. The decisions of the Court of Appeals of Ohio, Seventh Judicial District, is printed in Appendix A hereto, *infra*, pages I to VI. Copies of the record in the original court, the Court of Common Pleas of Mahoning County are a part of the record in this case.

JURISDICTION

This suit was brought under Section 2953.02 Ohio Revised Code to reverse the decision of the Common Pleas Court of Mahoning County. The judgment of the Court of Appeals of Ohio was entered on October 23, 1963. The judgment of the Supreme Court of the State of Ohio was entered on March 25, 1964. The jurisdiction of the Supreme Court to review this decision is conferred by Title 28, United States Code, Section 1257 (2). The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case: *Ker v. State of California*, 374 U.S. 23; *Norris v. State of Alabama*, 294 U.S. 587; *Pierre v. Louisiana*, 306 U.S. 354.

QUESTION PRESENTED

Whether the "probable cause" prohibition of the Fourth Amendment to the Constitution of the United States, and the "due process" clause of the Fourteenth Amendment to the Constitution of the United States, have been violated by the officials of the State of Ohio because of the failure of the trial court to exclude the evidence taken under the authority of a search warrant deficient in the following particulars:

1. The search warrant was issued on the affidavit of an officer who recited merely his "suspicion" thereupon that illegal activities were taking place on the premises.

2. The specific time of the observation upon which the affidavit was based and upon which the warrant was issued was not noted on the affidavit.
3. The arresting officer failed to file the affidavit upon which the warrant in question was issued with the judge granting the warrant.

STATEMENT

A paper, purporting to be a search warrant was issued by the Common Pleas Court of Mahoning County to Officer Andrew Kovac of the Youngstown, Ohio, Police Department on August 2, 1962. Under the authority of this purported warrant three police officers entered the appellant's tavern, served appellant with the warrant, searched appellant, and found slips of paper in his pocket. Appellant's tavern was then searched and appellant was taken by the police officers to the police headquarters for questioning.

On March 15, 1963, Appellant moved that the evidence collected from the appellant be excluded from entrance at his trial because the search warrant was issued on an affidavit which recited that the applicant officer "suspected" that illegal actions were transpiring at the appellant's premises; that while appellant was being searched, no record of the issuance of the search warrant was on file with the issuing court; and that the specific time of observation of these "suspected" activities was not stated in the search warrant.

The court overruled this motion and the appellant was tried before a jury on March 18, 1963, before a jury which returned a verdict of "Guilty, as charged in the indictment." Appellant's Motion for a New Trial and Application for Probation were overruled, and the appellant was sentenced to a term of not less than one and not more than ten years in the Ohio Penitentiary.

A notice of appeal was perfected to the Ohio Court of Appeals, Seventh Judicial District, at which time, *inter alia*,

the appellant appealed upon grounds that the trial court erred in overruling appellant's motion to suppress evidence. After reciting that appellant questioned this action of the trial court, the Court of Appeals stated that:

> "*Mapp* specifically states that it is for the trial court in the first instance to determine what constitutes a reasonable search and seizure and that in so doing the trial court may not follow any fixed formula." Appendix A., *infra*, p. V.

Subsequent to the Court of Appeals' decision to uphold the trial court, the appellant appealed to the Supreme Court of the State of Ohio on the grounds that the trial court had erred in overruling the motion to suppress evidence and that the Court of Appeals had erred in sustaining the judgment of the trial Court. The Ohio Supreme Court dismissed all of the appellant's motions to this end and appellant perfected appeal to this Court by filing a Notice of Appeal with the Supreme Court of the State of Ohio.

THE QUESTION IS SUBSTANTIAL

The appellant herein would have this court consider, once again, the validity of a search warrant found to be valid by the courts of the State of Ohio. Appellant believes that the warrant involved and the affidavit upon which the warrant was issued is faulty and that the courts of Ohio were grossly mistaken in not ordering the evidence seized under this warrant excluded at the appellant's trial.

1. The warrant in question was issued on the mere suspicion that illegal activities were taking place, according to the affidavit of officer Kovac, who said that the premises had been observed and people were seen who were "suspected of playing the numbers game." See Affidavit for Search Warrant, Appendix B.

This Court has decided that the mere belief or suspicion of the affiant is not a sufficient basis for the issuance of a warrant. *Nathanson v. United States*, 282

U.S. 344. Since it is a ruling of this Court that a warrant issued on a faulty affidavit violates the Federal Constitution and since this Court decided in *Kerle v. California* 374 U.S. 23; and *Mapp v. Ohio*, 367 U.S. 643; that the state law enforcement officers must observe the rights of citizens regarding search and seizure guaranteed by the Constitution of the United States, a substantial question exists as to why these rights, guaranteed to the appellant in the light of these Supreme Court decisions, were not recognized by the agencies and courts of the State of Ohio.

2. The affidavit supporting the warrant in this case failed to set forth the time at which the affiant officer saw the suspicious persons except for the statement, "on two afternoons". See Appendix B.

The authorities are unanimous in holding that a specific statement in the affidavit for a search warrant of the time when the alleged offense was observed is essential for the validity of the search warrant based upon such an affidavit. Further, the statements as to the time of the alleged offense must be clear and definite and must not be too remote from the time of issuing the search warrant. 162 *ALR* 1406; *Rupenski v. United States*, 4 Fed. 2d, 17; *Poldo v. United States*, 55 Fed. 2d 866.

The opinions of this court have never directly treated the necessity of an exact statement of the time of observation in an affidavit supporting a search warrant; but it is appellant's contention that an exact statement is necessary. Therefore, a substantial question of a great general interest is raised by this appeal. That search warrants should issue on the basis of observations which *could* have been made years previous to the granting of a search warrant seems to be contrary to the essence of the safeguards provided by the Fourth Amendment.

3. Section 2933.23 of the Ohio Revised Code requires that no warrant shall issue until a copy thereof is filed with the judge who issues the warrant. See Appendix C. The arresting officer applied for and was granted the search warrant on August 2, 1962. The appellant's premises were searched on August 2, 1962. The record in the trial court shows (pages 19 through 27) that the affidavit was not filed, as required by statute, until August 3, 1962.

Appellant assigns as error this failure to file a copy of the warrant with the judge, because to permit the police officer to retain possession of both the affidavit and the search warrant throughout the course of the search and seizure, as is the case here, gives the police officer the opportunity to alter both documents to comply with the products of the search.

A search warrant is an extraordinary writ of the court which issues that warrant, and a reading of the Fourth Amendment shows that the courts, not the police officers, are to control that search. To provide an opportunity for changing that writ without the authority of the court, is to deny the appellant's constitutional right to be secure against an illegal search and seizure.

It is submitted that the decisions of the courts of Ohio in this case fail to give support to the United States Supreme Court dictates regarding the legality of search warrants. The appellant therefore believes that the questions presented by the appeal are substantial and that they are of public importance.

THEODORE R. SAKER,
50 E. Broad St., Columbus, Ohio,
AVETIS G. DARVANAN
Counsel for Appellant
802 Mahoning Bank Building, Youngstown, Ohio

APPENDIX A

IN THE COURT OF APPEALS SEVENTH JUDICIAL DISTRICT

Case No. 4324

STATE OF OHIO,
COUNTY OF MAHONING, } ss.

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

JOURNAL ENTRY

(Filed October 23, 1963)

This cause came on for hearing upon the appeal on questions of law, assignments of error, bill of exceptions, the transcript, and the original papers and pleadings from the Court of Common Pleas of Mahoning County, Ohio, and was argued by counsel, the Court examined all of the claims of error, on consideration whereof the Court finds there is no error apparent on the record in said proceedings and judgment prejudicial to the Appellant.

It is, therefore, considered by the Court that the judgment of the Court of Common Pleas be, and the same is hereby affirmed.

It is further ordered that a special mandate be sent to the Common Pleas Court of Mahoning County, Ohio, directing the Court of Common Pleas to carry this judgment

into execution. To all of which, Appellant, by his counsel excepts.

APPROVED:

/s/ LOREN E. VAN BROCKLIN,
Attorney for Plaintiff-Appellee

/s/ AVETIS G. DARVANAN,
Attorney for Defendant-Appellant

/s/ PAUL W. BROWN,
Judge.

/s/ JAMES G. FRANCE,
Judge.

/s/ GEORGE M. JONES,
Judge.

IN THE COURT OF APPEALS SEVENTH JUDICIAL DISTRICT

Case No. 4324

STATE OF OHIO
COUNTY OF MAHONING } ss:

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

JOURNAL ENTRY

This cause came on for hearing upon the motion for rehearing and the brief in support thereof filed by Defendant-Appellant. Upon consideration whereof the Court finds that the motion is not well taken and is hereby overruled.

/s/ PAUL W. BROWN,
Judge

/s/ JAMES G. FRANCE,
Judge

/s/ GEORGE M. JONES,
Judge

APPROVED:

/s/ LOREN E. VAN BROCKLIN,
Attorney for Plaintiff-Appellee.

/s/ AVETIS G. DARVANAN,
Attorney for Defendant-Appellant.

STATE OF OHIO, MAHONING COUNTY
IN THE COURT OF APPEALS, SEVENTH DISTRICT

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

OPINION

Case No. 4324

APPEARANCES

Clyde W. Osborne, Prosecuting Attorney, and Loren E. Van Brocklin, Assistant Prosecuting Attorney, Youngstown, Ohio, for Plaintiff-Appellee.

Avetis G. Darvanan, Youngstown, Ohio, for Defendant-Appellant.

Hon. Paul W. Brown, Hon. James G. France, Hon. George M. Jones, JJ.

Dated: October 22, 1963.

Grace Marten, Court of Appeals Reporter, Mahoning County Courthouse, Youngstown, Ohio.

BROWN, P. J.

Defendant was found guilty by a jury and sentenced by the court for violating Revised Code Section 2915.13 (promoting a numbers game). Counsel for defendant maintains the court below must be reversed.

Defendant claims in his first assignment of error that Revised Code Section 2915.13 is unconstitutional in that it attempts to give the State of Ohio extra territorial police powers.

We hold that Revised Code Section 2915.13 does not violate any provision either of the Constitution of the State of Ohio or of the Constitution of the United States and that this assigned error is not well taken.

Defendant claims Revised Code Section 2915.13 is "unconstitutional because it is not definite and certain as to its meaning."

The act to which reference is here made is not uncertain in meaning. In fact, the words of the statute of which counsel for the defendant complains appear to have been inserted for the purpose of permitting particular words of local usage helpful in defining the exact "scheme of chance" to be inserted. The words or terms of similar import to "numbers game", "clearing house", or "policy" need only be such as will convey to a person of ordinary understanding and intelligence an adequate description of the prohibited act. Wharton Criminal Law and Procedure (1957), Volume 1, Page 32, Section 18.

Defendant complains that the court erred in overruling appellant's motion to suppress evidence claimed to have been obtained by unlawful search and seizure. Defendant cites *Mapp v. Ohio*, 367 U. S. 643.

This case is authority for the point that admission in state court of evidence obtained by illegal search and seizure is a violation of the due process clause of the Fourteenth Amendment to the Federal Constitution. *Mapp v. Ohio* overruled *Wolf v. Colorado*, 338 U. S. 25, which had held that the so-called exclusionary rule applied to federal courts only.

In determining what constitutes an unreasonable search and seizure in violation of the Fourth and Fourteenth Amendments of the United States Constitution, the significance of the *Mapp* case must be confined strictly to the aggravated facts of that case.

Mapp specifically states that it is for the trial court in the first instance to determine what constitutes a reasonable search and seizure and that in so doing the trial court may not follow any fixed formula. See also *State v. Young*, 91 Ohio Law Abstract 21.

In this case a warrant was issued upon an affidavit regular in form which contained the allegations required by Revised Code Section 2933.23. The facts stated therein or elicited by the court before issuing the warrant were such as to justify the trial court in issuing a search warrant.

The affidavit filed with the court for the purpose of obtaining the warrant stated the place to be searched and the property to be seized. It recited the belief that gambling paraphernalia, to-wit, numbers slips and horse bet slips were in the possession of the defendant, Carmen Tisone, and that the belief was based upon the fact that said premises were kept under surveillance by affiant, a police officer, and was based upon his observations during that period of time. Among these facts were statements from which it could be gathered that the numbers of people who were frequenting the described premises during the period of observation, and the manner of their frequenting said establishment, was the basis of the belief of the affiant that there was probable cause for a warrant to issue.

In *State of Ohio v. Mapp*, 170 Ohio St. 427, the Supreme Court of Ohio assumed that the search and seizure was unlawful, so that court was not reversed by the United States Supreme Court upon this finding.

No federal case cited holds that state courts are required to follow rules or statutes followed by the federal courts in determining what is a reasonable and hence lawful search and seizure or the federal mechanics before obtaining a state court search warrant. If it were so held we would be extremely interested in the rationale.

The search in this case was reasonable and in all respects lawful, no right of privacy was unlawfully invaded. Due process was carefully observed. The police officers involved should be commended for diligence. The motion to suppress was properly overruled.

The fourth assigned error involves the trial court's refusal to instruct that mere possession of numbers slips by the defendant would not be a crime under Revised Code Section 2915.13. Under the evidence in the case such a charge was properly refused.

The record does not bear out the errors assigned as fifth and sixth, and they are overruled.

FRANCE, J., Concurs.

JONES, J., Concurs.

APPROVED:

PAUL W. BROWN,

Judge.

THE SUPREME COURT OF THE STATE OF OHIO

No. 38525

THE STATE OF OHIO, City of Columbus. } 1964 TERM

T it: Wednesday, March 25, 1964

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

APPEAL FROM THE COURT OF APPEALS FOR MAHONING COUNTY

This cause, here on appeal as of right from the Court of Appeals for Mahoning County was heard in the manner prescribed by law and upon motion of the appellee to dismiss such appeal.

On consideration thereof, such appeal is dismissed for the reason that no substantial constitutional question exists herein.

It is further ordered that the plaintiff-appellee recover from the defendant-appellant its costs herein expended; that a mandate be sent to the Court of Common Pleas to carry this judgment into execution; and that a copy of this entry be certified to the Clerk of the Court of Appeals for Mahoning County for entry.

I, Thomas L. Startzman, Clerk of the Supreme Court of Ohio, certify that the foregoing entry was correctly copied from the Journal of this Court. Journal 46, Page 319.

Witness my hand and the seal of the Court this 23rd day of September, 1964.

[SEAL]

THOMAS L. STARTZMAN,
Clerk.

By NORMAN P. MEYERS,
Deputy.

THE SUPREME COURT OF THE STATE OF OHIO

No. 38525

THE STATE OF OHIO,
City of Columbus. } 1964 TERM

To wit: Wednesday, March 25, 1964

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

MOTION BY APPELLEE TO DISMISS APPEAL AS OF RIGHT

It is ordered by the Court that this motion is sustained.

I, Thomas L. Startzman, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No. 46, Page 317.

In witness whereof, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 23rd day of September, 1964.

[SEAL]

THOMAS L. STARTZMAN,
Clerk.

By NORMAN P. MEYERS,
Deputy.

THE SUPREME COURT OF THE STATE OF OHIO

No. 38525

THE STATE OF OHIO,
City of Columbus. } 1964 TERM

To wit: Wednesday, March 25, 1964

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

MOTION FOR LEAVE TO APPEAL FROM THE COURT OF APPEALS FOR MAHONING COUNTY

It is ordered by the Court that this motion is overruled.

COSTS:

Motion Fee, $20.00, paid by Avetis G. Darvanan.

I, Thomas L. Startzman, Clerk of the Supreme Court of Ohio, certify that the foregoing entry was correctly copied from the Journal of this Court. Journal 46, Page 317.

Witness my hand and the seal of the Court this 23rd day of September, 1964.

[SEAL]

THOMAS L. STARTZMAN,
Clerk.

By NORMAN P. MEYERS,
Deputy.

THE SUPREME COURT OF THE STATE OF OHIO

No. 38525

THE STATE OF OHIO,
City of Columbus. } 1964 TERM

Wednesday, April 29, 1964

STATE OF OHIO,
Plaintiff-Appellee,

vs.

CARMEN TISONE,
Defendant-Appellant.

REHEARING

It is ordered by the Court that rehearing in this case is denied.

It is further ordered that issuance of the mandate in this case be, and the same hereby is, stayed for a period of seven (7) days from this date to enable appellant to apply to the Supreme Court of the United States for a stay of execution.

/s/ KINGSLEY TAFT,
Kingsley Taft, *Chief Justice*

I, Thomas L. Startzman, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No. 46, Page 375.

In witness whereof, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 23rd day of September, 1964.

[SEAL]

THOMAS L. STARTZMAN,
Clerk.

By NORMAN P. MEYERS,
Deputy.

APPENDIX B

COPY

AFFIDAVIT FOR SEARCH WARRANT

Revised Code, Sec. 2933.23

The State of Ohio, *Mahoning* County.

Before me, *John W. Ford*, Judge of the Common Pleas Court in and for the above named County, personally came *Patrolman Andrew Kovac*, who being first duly sworn according to law, deposes and says:

That *he* believes, and has good cause to believe that the following articles, to-wit:

Gambling Paraphernalia, to wit:—
Numbers Slips and Horse Bet Slips

(1) *kept and used for unlawful gaming, etc.* are at the present time kept and concealed in said County of *Mahoning* and that the said articles, or some part thereof, are in the possession and under the control of *Carmen Tisone* at

(2) *1810 Wilson Ave., Youngstown, Ohio, a three (3) story brick building with glass front.*

And that said *Carmen Tisone* and the above named articles should be seized.

Such belief is based upon the fact that
said premises were kept under surveillance by the undersigned for two afternoons, and a large number of people were observed frequenting said establish-

---

(1) "Kept and used for the commission of crime," "kept and used for unlawful gaming, etc." "Stolen from," "embezzled from"

(2) Description of property in detail.

ment and suspected of playing the numbers game and placing horse bets.

/s/ ANDREW KOVAC

DEFENDANT'S EXHIBIT

No. .....

Sworn to and subscribed before me this *2nd* day of *August 1962*.

/s/ JOHN W. FORD,
Judge.

COPY

SEARCH WARRANT

Criminal Code—Chap. 9, Sec. 1 and 5

The State of Ohio, *Mahoning* County.

TO THE CHIEF OF POLICE, YOUNGSTOWN, OHIO:

Whereas there has been filed with me an affidavit, of which the following is a true copy, to-wit:
The State of Ohio, *Mahoning* County.

Before me *John W. Ford*, Judge of the Common Pleas Court in and for the above named County, personally came *Patrolman Andrew Kovac*, who being first duly sworn according to law, deposes and says:

That he believes, and has good cause to believe that the following articles, to-wit:

Gambling Paraphernalia, to wit:—
Numbers Slips and Horse Bet Slips

are at the present time kept concealed in said County of *Mahoning* and that the said articles, or some part thereof, are in the possession and under the control of *Carmen Tisone* at *1810 Wilson Ave., Youngstown, Ohio, a three (3) story brick building with glass front.*

And that said *Carmen Tisone* and the above named articles should be seized.

Such belief is based upon the fact that

said premises were kept under surveillance by the undersigned for two afternoons, and a large number of people were observed frequenting said establish-

ment and suspected of playing the numbers game and placing horse bets.

/s/ ANDREW KOVAC

DEFENDANT'S
EXHIBIT
No. .....

Sworn to and subscribed before me this *2nd* day of *August 1962.*

/s/ JOHN W. FORD,
Judge.

These are, therefore, to command you in the name of the State of Ohio, with the necessary and proper assistance, to enter, in the *daytime*, into 1810 Wilson Ave., Youngstown, Ohio, a three (3) story brick building with a glass front of the said *City* of *Youngstown* in the County aforesaid, and there diligently search for the said goods and chattels, or articles, to-wit:

Gambling Paraphernalia, to wit:—
Numbers Slips and Horse Bet Slips

and that you bring the same or any part thereof, found on such search, and also the body of *Carmen Tisone* forthwith before me, or some other Judge or Magistrate of the County having cognizance thereof, to be disposed of and dealt with according to law.

Given under my hand, this *2nd* day of *August 1962.*

/s/ JOHN W. FORD,
Judge.

RETURN OF CHIEF OF POLICE, YOUNGSTOWN, OHIO

The State of Ohio, ... County.

Received this writ *August 2, 1962*, at *10:00* o'clock A.M., and *entered 1810 Wilson Ave. at 2:30 P.M. date, and confiscated off of the person of Carmen Tisone, 25 slips with numbers on them, 7 white slips with horse bets on same, 2 white slips with horse bets and numbers on same, 2 white pads.*

FEES

Service & Return $.....
(Each person named $1.00)
Mileage, - - - - - - .....
Assistants, - - - - - .....
Total, - - - - - - $.....

s/ ANDREW KOVAC
s/ THOMAS E. DEWITT
.....
Sheriff
By.....
Deputy

APPENDIX C

Ohio Revised Code Section 2933.23

"A warrant for search shall not be issued until there is filed with the judge or magistrate an affidavit particularly describing the house or place to be searched, the person to be seized, the things to be searched for and seized, and alleging substantially the offense in relation thereto, and that the complainant believes and has good cause to believe that such things are there concealed, and he shall state the facts upon which such belief is based. The judge or magistrate may demand other and further evidence before issuing the warrant. If the judge or magistrate is satisfied that grounds for the issuance of a warrant exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched."